

1 THE HONORABLE JOHN C. COUGHENOUR
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 LEONARD ROLLINS, *et al.*,

11 CASE NO. C14-1414-JCC

12 Plaintiffs,

13 ORDER

v.

14 TRAYLOR BROS INC, *et al.*,

Defendants.

15 This matter comes before the Court on Plaintiffs' Motion for Sanctions – to Strike
16 "Privilege" Objections and for other terms. (Dkt. Nos. 222 and 224.) Having reviewed the
17 Plaintiffs' Motion, and all supporting documentation, the Defendants' response (Dkt. No. 226),
18 the Plaintiffs' reply (Dkt. No. 230), and the record in this matter, and having considered lesser
19 sanctions, the Court hereby GRANTS Plaintiffs' Motion as detailed below.

20 Plaintiffs have been prejudiced by the late disclosure and non-disclosure of e-mails.
21 Defendants have not provided justification, other than inexcusable neglect, for the failure to
22 disclose and/or timely disclose. Defendants have admitted in Response that errors were made
23 and have taken reasonable steps to correct them, and the Court hereby approves the agreement
24 between the parties and incorporates it into this Order and otherwise ORDERS as follows:

25 1) Defendants will pay Plaintiffs' counsel's reasonable fees for consequences of the
26 error, including the costs of bringing this motion, deposing Mr. Lamb, and conferring

1 on the issues referenced in the motion.¹

2 2) Defendants shall review the archive copy of e-mails maintained for this litigation and
3 produce all non-privileged items not previously produced; produce a privilege log for
4 all truly privileged items; and, in addition, shall re-review all prior privilege log items
5 and disclose all non-privileged e-mails, within ten days of this Order.

6 3) If, as a result of the above, Plaintiffs obtain additional information, they may depose or
7 re-depose participants in the e-mail exchanges, and with costs but not attorney fees at
8 Defendants' expense.

9 4) Plaintiffs may re-depose Chad Lamb under Rule 30(b)(6) at Defendants' expense and
10 without the assertion of privilege by Defendants, except privilege may be asserted over
11 any actually privileged content of e-mails to or from counsel.

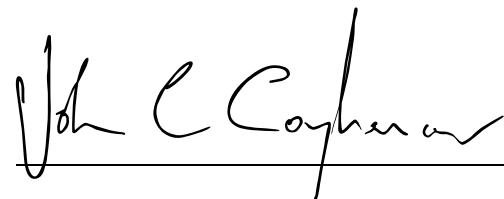
12 5) At least one relevant e-mail related to Exhibit D to the Hitzel Declaration was
13 requested in discovery and has been lost through no fault of Defendants' counsel.

14 6) The discovery cutoff is hereby extended for Plaintiffs for 45 days for depositions by
15 Plaintiffs which are associated with this motion and the agreements of counsel.

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17 For the foregoing reasons, Plaintiff's motion for sanctions (Dkt. Nos. 222 and 224) is

18 GRANTED.

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20 DATED this 29th day of June, 2017.



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23 John C. Coughenour
24 UNITED STATES DISTRICT JUDGE
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¹ Defense counsel has already provided Plaintiffs' counsel a check in the amount of \$22,011.76. (Dkt. No. 226 at 2; Dkt. No. 227-1.)